

CANADA / JUDGMENT

Raith v. Gauthier

2025 BCSC 776

COURT

Supreme Court of British Columbia

DECIDED

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2025 BCSC 776 Raith v. Gauthier IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Raith v. Gauthier, 2025 BCSC 776 Date: 20250417 Docket: 2362459 Registry: Prince George Between: Jeanny Maria Raith Claimant And Chad James Gauthier Respondent Before: The Honourable Madam Justice Sukstorf Oral Reasons for Judgment The Claimant Appearing on own behalf: J.M. Raith Place and Date of Hearing: Prince George, B.C. April 10, 2025 Place and Date of Judgment: Prince George, B.C. April 17, 2025 Table of Contents OVERVIEW.. 3 LEGAL FRAMEWORK.. 4 ANALYSIS. 4 A. Separation Date. 4 B. Division of Family Property. 4

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[1] THE COURT: These are my reasons for judgment in this matter involving the division of family property and debt under the Family Law Act, S.B.C. 2011, c. 25 [FLA]. The parties were in a marriage-like relationship for almost eight years and have one child. Parenting matters have already been resolved in Provincial Court. The primary issues before me involve the family residence, an inherited property, financial contributions made post-separation, and entitlement to costs. OVERVIEW

[2] The parties began cohabiting on or about September 20, 2014, and although there were intermittent separations, they resumed living together until their final separation in 2022. They were never legally married.

[3] A central issue concerns the parties' jointly acquired family residence at 9220 Six Mile Lake Road, Prince George, B.C. ("Six Mile Lake Property"), purchased on October 2, 2020, for \$316,000. Following separation, Ms. Raith remained in the home and has covered all mortgage and related costs since August 2022, with the exception of two \$1,000 contributions made by Mr. Gauthier after separation. The home is now valued at approximately \$368,000. Ms. Raith contributed \$50,000 toward the down payment; Mr. Gauthier contributed \$13,781.43. She seeks to retain the property and assume full responsibility for the mortgage.

- [4] There is a dispute about the date of separation. Ms. Raith asserts it occurred in May 2022, supported by documentary evidence showing her removal from the respondent's benefit and pension plans. Mr. Gauthier has provided inconsistent separation dates in various filings, ranging from June to November 2022.
- [5] Additional issues arise regarding the classification of excluded property, including Mr. Gauthier's inherited interest in a lakefront property, and whether the claimant is entitled to compensation for her financial contributions post-separation. Costs are also in issue, given the respondent's failure to attend trial or meaningfully participate in the proceedings.

LEGAL FRAMEWORK

- [6] Under s. 3 of the FLA, unmarried couples who have lived together in a marriage-like relationship for at least two years are considered spouses.
- [7] On separation, each spouse has an equal interest in family property and is equally responsible for family debt (s. 81).
- [8] Family property includes all real and personal property owned by either spouse on the date of separation, unless it qualifies as excluded property under s. 85. Increases in value of excluded property are considered family property under s. 84(2)(g).
- [9] Family debts include those incurred during the relationship and post-separation debts used to preserve family property (s. 86).
- [10] The court may order unequal division under s. 95 where equal division would be significantly unfair.
- [11] Under s. 87, the valuation date for property and debt is either the date of a separation agreement or the hearing.

ANALYSIS

A. Separation Date

- [12] While the parties have given varying dates for their separation, the precise timing is not determinative of the issues before the court. I accept Ms. Raith's evidence that the separation occurred in May 2022, as her account is supported by documentation and has remained consistent throughout the proceedings.

i) Six Mile Road Residence

- [13] During the relationship, the parties purchased the Six Mile Road Property as their family residence for \$316,000 in October 2020. Ms. Raith contributed \$50,000 toward the down payment, while Mr. Gauthier contributed \$13,781.43. Ms. Raith advises the Court that there is no dispute the parties should each receive a return of their original contributions. She has provided some documentary support confirming that both parties agreed to this, and further agreed that the increase in the home's value should be divided equally.
- [14] Ms. Raith seeks additional credit for a \$10,000 lump-sum mortgage payment and \$15,000 in renovations and maintenance. I have considered whether these amounts should be treated as unequal contributions. However, there is insufficient evidence to support a separate credit for either. No receipts or documentation were provided for the renovation costs, and based on the mortgage records, the lump-sum payment appears to have been made during the relationship and is properly treated as a joint family contribution.
- [15] As explained above, the valuation date for property is either the date of a separation agreement or the hearing which occurred on April 10, 2025. The most recent property assessment before the court values the home at \$368,000. According to the mortgage statement dated July 11, 2024, the outstanding principal at that time was \$197,277.63. Biweekly payments included approximately \$485.30 applied toward principal, requiring the court to estimate the balance as of the hearing date.
- [16] Between July 11, 2024, and the date of the hearing, April 10, 2025, approximately 39 weeks elapsed, representing 19 full biweekly payment cycles. At \$485.30 per cycle, the principal was reduced by approximately \$9,220.70. The estimated outstanding balance as of April 10, 2025, is therefore \$188,056.93.
- [17] In light of the down payments and the mortgage payments made, the parties have accumulated equity in the house that is to be divided equally as of the date of the hearing. As explained above, based on the estimated remaining mortgage there is approximately \$179,943 in equity in the Six Mile Road Residence, which is to be divided equally between the parties. ii) Lakefront Property and Fifth Wheel Trailer
- [18] During the relationship, the parties jointly used a fifth-wheel trailer situated on a lakefront property located at 805 Bateman Road, ("Lakefront Property") which was inherited by Mr. Gauthier on April 10, 2019. While they both maintained and used the property, Ms. Raith acknowledges that the Lakefront Property itself is excluded property under s. 85 of the FLA. However, she asserts an interest in the increase in value of Mr. Gauthier's share and has registered a Certificate of Pending Litigation (CPL) against the property.
- [19] Mr. Gauthier inherited a one-fifth share in the Lakefront Property. In 2019, the total property was valued at \$75,200. By the 2024 assessment (as of July 1, 2023), the property had increased to \$211,100.
- [20] The increase in value is calculated as follows:

- a) $\$211,100 - \$75,200 = \$135,900$ (total increase);
 - b) $\$135,900 \div 5 = \$27,180$ (increase in value of Mr. Gauthier's one-fifth share);
 - c) $\$27,180 \div 2 = \$13,590$ (claimant's entitlement to half the increase).
- [21] The fifth-wheel trailer is valued at \$3,000. Ms. Raith proposes a \$1,500 credit in her favour. Accordingly, the combined value awarded to the claimant from the Lakefront Property and trailer is \$15,090. C. Pension and RRSP Assets
- [22] Both parties may have pension or RRSP entitlements. Limited evidence suggests Mr. Gauthier may have a defined benefit pension with Canadian National Railway (CNR), regulated under the Pension Benefits Standards Act, 1985, R.S.C. 1985, c. 32 (2nd Supp.). In his October 10, 2024 Financial Statement, he listed it indicating it was worth \$21,585.75 at the termination of his employment. This would constitute divisible family property if it accrued during the relationship. However, there is no evidence confirming its particulars, its current value or information that details that it accumulated during the period of cohabitation. It states that there are documents attached, but they are not included in the file before me.
- [23] One of Mr. Gauthier's financial statements refers to retirement assets estimated at \$37,000. Similarly, there is no evidence indicating whether this is the same as his CNR pension, if he does have one, or, if any contributions or benefits accrued during the relationship. No actuarial valuation, pension division documents, or supporting records of any kind to substantiate this \$37,000 figure.
- [24] Ms. Raith advised that she only began full-time employment in 2021 and believes she has limited pension entitlements. She expressed a willingness for both parties to waive any interest in each other's pension or retirement assets. However, there is insufficient information before the court for either party to make an informed decision in this regard. In the absence of proper disclosure or supporting documentation, I am not satisfied that any mutual waiver would be knowing, informed, or binding.
- [25] No order is made with respect to the division of pension or RRSP assets. Either party may apply to pursue division in the future. D. Family Debt and Preservation Costs
- [26] In several financial statements previously filed with the court, Mr. Gauthier lists various debts, including CRA balances and credit cards. However, he has provided no further evidence to show that these debts were incurred during the relationship or whether they are his business-related debts. In the absence of any supporting information, I am not satisfied that these obligations qualify as family debt.
- [27] As previously noted, the remaining principal on the mortgage for the Six Mile Road property is estimated at \$188,056.93. Ms. Raith seeks an order granting her sole ownership of the home, and she is prepared to assume exclusive responsibility for the outstanding mortgage debt.

- [28] Under s. 86 of the FLA, family debt includes post-separation obligations incurred to preserve family property. From August 2022, Ms. Raith assumed full responsibility for the home's mortgage, taxes, insurance, and utilities. These payments preserved and enhanced the family asset to the date of hearing and are therefore family debt. Mr. Gauthier is equally responsible for these preservation costs. While Ms. Raith also claimed renovation expenses, no receipts were submitted, so those are not credited.
- [29] Ms. Raith filed submissions showing she paid \$61,099.04 in housing-related expenses after separation, including mortgage payments, taxes, and utilities. The claimant's monthly housing costs from August 2022 to March 2025 are summarized below: Month/Year Amount (\$)
- | Month/Year | Amount (\$) |
|------------|----------------|
| Aug 2022 | 1,349.47 |
| Aug 2023 | 1,977.40 |
| Sept 2022 | 2,041.69 |
| Sept 2023 | 2,782.78 |
| Oct 2022 | 1,999.45 |
| Oct 2023 | 1,360.40 |
| Nov 2022 | 1,775.43 |
| Nov 2023 | 1,751.30 |
| Dec 2022 | 2,219.68 |
| Dec 2023 | 1,463.20 |
| Jan 2023 | 2,317.34 |
| Jan 2024 | 1,614.74 |
| Feb 2023 | 1,543.45 |
| Feb 2024 | 2,205.28 |
| Mar 2023 | 2,300.32 |
| Mar 2024 | 1,626.18 |
| Apr 2023 | 2,074.89 |
| Apr 2024 | 1,752.68 |
| May 2023 | 1,761.50 |
| May 2024 | 1,478.64 |
| June 2023 | 2,372.67 |
| June 2024 | 2,694.42 |
| July 2023 | 1,993.90 |
| July 2024 | 1,402.73 |
| Aug 2024 | 1,975.07 |
| Feb 2025 | 1,592.41 |
| Sept 2024 | 1,394.88 |
| Mar 2025 | 1,667.25 |
| Oct 2024 | 3,224.11 |
| Nov 2024 | 1,501.97 |
| Dec 2024 | 1,542.11 |
| Jan 2025 | 2,341.70 |
| Total | \$61,099.04 E. |
- Equalization of Property and Debt
- [30] Mr. Gauthier is entitled to an equal share of the equity in the Six Mile Road Property, which has increased since separation, due to the increase in the real estate market and the regular mortgage payments paid by Ms. Raith that reduced the principal owed. As such, he is also equally responsible for the costs incurred to preserve and maintain the property after separation, which includes the mortgage payments, taxes, insurance, and utilities paid by Ms. Raith. These preservation costs total \$61,099.04. Mr. Gauthier is responsible for 50% (\$30,549.52), less the \$2,000 he has already contributed. His remaining obligation is \$28,549.52.
- [31] The total value of family property and debt for equalization purposes is summarized below. This includes an equal division of equity in the family residence, return of each party's down payment, and Ms. Raith's credit for her share of the increase in value of the Lakefront Property and trailer. Asset and Debt Equalization Summary Table
- | Category | Total (\$) | Raith | Gauthier | Notes |
|--|---------------|-------------------|-----------------|---|
| Six Mile Road Property - Equity | 179,943.00 | 89,971.50 | 89,971.50 | Split equally |
| Down Payment Credit | 63,781.43 | 50,000.00 | 13,781.43 | Adjusted per actual contributions |
| Lakefront Property - 1/5 Increase | 27,180.00 | 13,590.00 | 13,590.00 | Only Increase divisible |
| Fifth-Wheel Trailer (Value \$3,000) | 3,000.00 | 1,500.00 | 1,500.00 | Equal division of agreed value |
| 50% of total costs (\$30,549.52) less \$2,000 already paid | - (28,549.52) | Owed to Ms. Raith | by Mr. Gauthier | Final Equalization Payable by Raith - - 10,113.45 |
- See detailed breakdown below
Calculation of Final Equalization Owed
- [32] Gauthier's share of the Six Mile Road equity is: $\$179,943 \div 2 = \$89,971.50$.

- [33] From that amount, the following offsets are applied: · Greater down payment by Raith: \$36,218.57; · Raith's 50% of increase in Lakefront Property value: \$13,590.00; · Raith's 50% of trailer value: \$1,500.00.
- [34] Mr. Gauthier is responsible for half of those costs (\$30,549.52), reduced by \$2,000 in payments already made, for a net preservation obligation of \$28,549.52.
- [35] Total offsets: $36,218.57 + 13,590.00 + 1,500.00 + 28,549.52 = \$79,858.09$.
- [36] Final equalization payable by Ms. Raith to Mr. Gauthier: $89,971.50 - 79,858.09 = \$10,113.41$, rounded to \$10,113.45. F. COSTS
- [37] Ms. Raith is self-represented and has actively pursued resolution of the issues in this matter. Mr. Gauthier, despite being aware of the trial date, failed to attend trial, did not participate in settlement conferences, made only limited appearances in earlier proceedings, and did not respond to settlement offers or engage in meaningful efforts to resolve the dispute.
- [38] Self-represented parties may be awarded costs where appropriate. The focus is on compensating for time and effort reasonably expended.
- [39] Ms. Raith attended multiple judicial conferences and made pre-trial settlement efforts. Given the respondent's failure to participate or attend trial, I find that an award of fixed costs in the amount of \$1,500 in favour of Ms. Raith is appropriate. DISPOSITION AND ORDERS
- [40] For the reasons set out above, I make the following orders:
- a) The Six Mile Road Property is declared family property under the FLA.
 - b) The claimant, Ms. Raith, shall retain sole ownership of the Six Mile Road Property, located at 9220 Six Mile Lake Road, Prince George, BC, V2N 6V3 (PID: 012-114-944) and shall assume full responsibility for the remaining mortgage.
 - c) The name of Chad James Gauthier is to be removed from the title to the Land described as 92220 Six Mile Lake Road, Prince George, BC, V2N 6V3, Canada, Parcel Identifier: 012-144-944.
- a) Lot 2 District Lot 636 Cariboo District Plan.
 - b) The respondent, Mr. Gauthier, shall take all necessary steps to transfer his interest in title to the claimant and, where possible, to be removed from the mortgage obligations.
 - c) With respect to the Lakefront Property, I find that the respondent's interest is excluded property under s.85 of the FLA. However, the claimant is entitled to \$13,590, representing 50% of the increase in value of the respondent's one-fifth interest. This amount is accounted for in the overall division of family property and need not be paid separately at this time.

- d) The CPL registered by the claimant against the Lakefront Property, located at 805 Bateman Road, Prince George, BC, V2N 6W1 (PID: 011-642-521) may remain in place until such time as the respondent's interest in the Six Mile Road Property has been transferred to the claimant and the respondent's name has been removed from title and, where possible, from the mortgage or alternatively until further order of the court.
 - e) The fifth-wheel trailer, with an agreed value of \$3,000, shall be retained by the respondent. The claimant's \$1,500 interest in the trailer has been credited to her in the equalization calculation.
 - f) The only recognized family debts are:
 - i. The outstanding mortgage on the Six Mile Road Property, which is to be assumed in full by the claimant; and ii. The total cost of \$61,099.04 incurred by the claimant in maintaining the property post-separation, for which the respondent is responsible for 50% of those costs (\$30,549.52), less \$2,000 already paid for a total amount of 28,549.52.
 - g) Any other debts claimed by either party, including those listed in the respondent's financial statement, are unsupported by evidence and are excluded from the division. Each party remains individually responsible for debts incurred solely in their own name.
 - h) The respondent is entitled to a final equalization payment of \$10,113.45 net of:
 - i. Costs awarded to the claimant in the fixed amount of \$1,500. ii. Any reasonable legal, registration, or discharge fees associated with the transfer of title and mortgage discharge or renewal for the Six Mile Road property. iii. The net amount shall be paid within 30 days of the transfer of title or removal of the respondent's name from the mortgage, unless otherwise agreed or further ordered by the court.
- [41] Either party may apply to Supreme Court Scheduling in writing should clarification or further directions be required for the implementation of this order. "Sukstorf J."

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